

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

LAMONT HEARD,

Plaintiff,

v.

Case No. 2:05-cv-231
HON. GORDON J. QUIST

UNKNOWN MASKER, et al.,

Defendants.

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**OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on March 27, 2008. The Report and Recommendation was duly served on the parties. The Court has received objections from Plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Plaintiff argues that there exists no doubt that Defendant opened Plaintiff's legal mail outside Plaintiff's presence. Defendant states that he did not open Plaintiff's legal mail. Plaintiff concedes that he did not see Defendant open his legal mail, but that grievance responses indicated that Defendant opened the mail. There clearly exists a genuine issue of material fact that precludes summary judgment.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (Docket #231) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment (Docket #206) and Defendant's Motion for Summary Judgment (Docket #228) are DENIED.

Dated: May 9, 2008

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE